

## REMARKS

Claims 2-4 and 21 are amended herein for clerical reasons. Claims 1-31 remain pending in the present application.

### Claim Objections

The present office action states that Claim 21 is objected to because of the following informalities: In Claim 21, the phrase “is response to changes” should be --in response to changes-- Appropriate correction is required.

Applicants have amended the clerical error of Claim 21 herein. Therefore, Applicants respectfully submit that the Objection to Claim 21 is moot.

### Claim Rejections - 35 U.S.C. §112

The present office action states that Claims 2-4 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Regarding Claims 2-4, the Office Action states that it is unclear to which extension the Claims are referring.

Applicants have amended Claims 2-4 herein. Therefore, Applicants respectfully submit that the rejection of Claims 2-4 under 35 U.S.C. § 112, second paragraph, is moot.

In addition, Claims 1-31 are rejected under 35 U.S.C. § 112, second paragraph, as the presence of the trademark “Macintosh” is not proper.

Applicants respectfully disagree with the present rejection under 35 U.S.C. § 112, second paragraph. Applicants respectfully point out that section 2173.05(u) of the MPEP clearly states “The presence of a trademark or trade name in a claim is not, per se, improper under 35 U.S.C. 112, second paragraph.” Moreover, section 608.01(v) of the MPEP states “If the trademark has a fixed and definite meaning, it constitutes sufficient

identification unless some physical or chemical characteristic of the article or material is involved in the invention.”

Applicants respectfully submit that the trademark “Macintosh” with further reference to an operating system has a fixed and definite meaning to provide sufficient identification of the operating system characteristics. As such, the rejection of Claims 1-31 under 35 U.S.C. § 112, second paragraph, based on the presence of the trademark “Macintosh” is improper and should be withdrawn.

#### Claim Rejections - 35 U.S.C. §102

##### Claims 1, 5-7, 9-13, 16-24 and 26-31

The present office action states that Claims 1, 5-7, 9-13, 16-24 and 26-31 are rejected under 35 U.S.C. § 102(e) as being anticipated by Wiser et al. (6,385,596). Applicants have reviewed the cited reference and respectfully submit that the embodiments of the present invention as recited in Claims 1, 5-7, 9-13, 16-24 and 26-31 are not anticipated by Wiser et al. for the following reasons.

Applicants respectfully submit that Claim 1 (and similarly Claims 12 and 23) includes the feature “A method for preventing unauthorized recording of media content on a Macintosh operating system comprising:

registering a compliance mechanism on a client system having said Macintosh operating system operating thereon, said compliance mechanism comprising:

a framework for validating said compliance mechanism on said client system; and

a multimedia component opened by said framework, said multimedia component for decrypting said media content on said client system; and

preventing decryption of said media content on said client system having said Macintosh operating system operating thereon **if a portion of said compliance mechanism is invalidated.**” (emphasis added).

Applicants have reviewed Wiser et al. and do not understand Wiser et al. to anticipate “registering a compliance mechanism on a client system having said Macintosh operating system operating thereon, said compliance mechanism comprising: a framework for validating said compliance mechanism on said client system; and a multimedia component opened by said framework, said multimedia component for decrypting said media content on said client system” (emphasis added).

In contrast, Applicants understand Wiser et al. to teach an online music distribution system including a variety of cooperative components that communicate over a public network, such as the Internet (emphasis added).

As such, Applicants submit that Wiser et al. does not anticipate the claimed feature of “a compliance mechanism on a client system comprising a framework and a multimedia component (emphasis added). Instead, Applicants understand Wiser et al. to teach and anticipate the compliance mechanism being distributed over a public network.

For this reason, Applicants do not understand Wiser et al. to anticipate the features of Claims 1, 12 and 23. As such, Applicants respectfully state that Claims 1, 12 and 23 are allowable.

Additionally, Applicants do not understand Wiser et al. to anticipate “preventing decryption of said media content on said client system having said Macintosh operating system operating thereon if a portion of said compliance mechanism is invalidated” (emphasis added).

In contrast, Applicants understand Wiser et al. to teach an online music distribution system including a variety of cooperative components that communicate over a public network, such as the Internet. Moreover, Applicants understand Wiser et al. to teach and anticipate validating the passport, but do not understand Wiser et al. to anticipate validating the multimedia component, e.g., the user’s media player.

As such, Applicants submit that Wiser et al. does not anticipate the claimed feature of “said compliance mechanism comprising: a framework ...; and a multimedia component ...; and preventing decryption of said media content on said client system having said Macintosh operating system operating thereon if a portion of said compliance mechanism is invalidated.” (emphasis added). Instead, Applicants understand Wiser et al. to remain silent regarding the validation of the user’s media player.

For this additional reason, Applicants do not understand Wiser et al. to anticipate the features of Claims 1, 12 and 23. As such, Applicants respectfully state that Claims 1, 12 and 23 are allowable.

Furthermore, Applicants respectfully submit that Claim 12 (and similarly Claim 23) clearly recites the feature “a kernel level extension providing kernel level driver information to said framework.” Applicants have reviewed Wiser et al. and do not understand Wiser et al. to anticipate a kernel level extension providing kernel level driver information to the framework.

For this reason, Applicants do not understand Wiser et al. to anticipate the features of Claims 12 and 23. As such, Applicants respectfully state that Claims 12 and 23 are allowable.

With respect to Claims 5-7, 9-11, 13, 16-22, 24 and 26-31, Applicants respectfully state that Claims 5-7, 9-11, 13, 16-22, 24 and 26-31 depend from the allowable Independent Claims 1, 12 and 23 and recite further features of the present claimed invention. Therefore, Applicants respectfully state that Claims 5-7, 9-11, 13, 16-22, 24 and 26-31 are also allowable as pending from allowable base Claims.

Rejection under 103(a)

Claims 2-4, 14-15 and 25

In the Office Action, the Examiner rejected Claims 2-4, 14-15 and 25 under 35 USC 103(a) as being unpatentable over Wiser et al. and further in view of Curran et al. (4,525,599). Applicants have reviewed the cited reference and respectfully submit that the present invention is not rendered obvious over Wiser et al. in view of Curran et al. for the following rationale.

Applicants respectfully submit that Claim 1 (and similarly Claims 12 and 23) includes the feature “A method for preventing unauthorized recording of media content on a Macintosh operating system comprising:

registering a compliance mechanism on a client system having said Macintosh operating system operating thereon, said compliance mechanism comprising:

a framework for validating said compliance mechanism on said client system; and

a multimedia component opened by said framework, said multimedia component for decrypting said media content on said client system; and

preventing decryption of said media content on said client system having said Macintosh operating system operating thereon **if a portion of said compliance mechanism is invalidated.**” (emphasis added).

For the reasons previously provided herein, Applicants respectfully submit that Claims 1, 12 and 23 are not rendered obvious by Wiser et al. Moreover, the combination of Curran et al. does not overcome the shortcomings of Wiser et al. As such, Applicants respectfully submit that Claims 1, 12 and 23 are presently allowable.

With respect to Claims 2-4, Applicants respectfully submit that Claims 2-4 depend from the allowable Claim 1 and recite further features of the present claimed invention. Therefore, Applicants respectfully state that Claims 2-4 are allowable as pending from an allowable base Claim.

With respect to Claims 14-15, Applicants respectfully submit that Claims 14-15 depend from the allowable Claim 12 and recite further features of the present claimed invention. Therefore, Applicants submit that Claims 14-15 are allowable as pending from an allowable base Claim.

With respect to Claim 25, Applicants respectfully submit that Claim 25 depends from the allowable Claim 23 and recites further features of the present claimed invention. Therefore, Applicants submit that Claim 25 is allowable as pending from an allowable base Claim.

#### Claim 8

The present Office Action rejects Claim 8 under 35 USC 103(a) as being unpatentable over Wiser et al. in view of official notice. Applicants have reviewed the rejection of record and respectfully submit that the present invention is not rendered obvious over Wiser et al. in view of Curran et al. for the following rationale.

With respect to Claim 8, Applicants respectfully submit that Claim 8 depends from the allowable Claim 1 and recites further features of the present claimed invention. Therefore, Applicants respectfully state that Claim 8 is allowable as pending from an allowable base Claim.

Furthermore, with respect to pages 10-11 of the Present Office Action, Applicants respectfully submit that inadequate support of a finding of Official Notice has been provided. That is, the Office Action takes Official Notice that both the concept and advantages for utilizing a bad boy list is well known and expected in the art. However, Applicants respectfully submit that the claimed embodiments of utilizing a bad boy list in conjunction with a media compliance mechanism, is not considered to be common knowledge or well-known in the art, as asserted by the Office Action.

The “assessment of basic knowledge and common sense that is not based on any evidence in the record lacks substantial evidence support” (MPEP 2144.03(A); *In re*

*Zurko*, 258 F.3d 1379, 1385, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001)). In particular, “[i]f such notice is taken, the basis for such reasoning must be set forth explicitly. The examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge” (MPEP 2144.03(B); see *In re Soli*, 317 F.2d 941, 946, 37 USPQ 797, 801 (CCPA 1963); see also *In re Chevenard*, 139 F.2d 711, 713, 60 USPQ 239, 241 (CCPA 1943)).

Applicants respectfully submit that the basis for Official Notice as relied on by the present Office Action is not set forth explicitly, as required. Applicants respectfully submit that the Office Action has not stated why the teachings of a bad boy list in conjunction with the playback of media is common knowledge. Furthermore, the Office Action has not stated how such teachings relate to the claims. Applicants respectfully assert that the Office Action has taken Official Notice without providing a clear and unmistakable technical line of reasoning, as required.

CONCLUSION

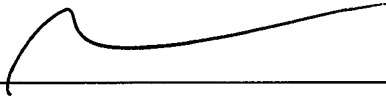
Based on the arguments presented above, Applicants respectfully assert that Claims 1-31 overcome the rejections of record, and therefore, Applicants respectfully solicit allowance of these Claims.

The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,  
Wagner Blecher LLP

Date: \_\_\_\_\_

*a/28/07*

A handwritten signature in black ink, appearing to read "John P. Wagner, Jr.", is written over a horizontal line.

John P. Wagner, Jr.  
Reg. No. 35,398

WESTRIDGE BUSINESS PARK  
123 WESTRIDGE DRIVE  
WATSONVILLE, CALIFORNIA 95076  
(408) 377-0500